



NOAA FISHERIES SERVICE



The NOAA Fisheries Service provides stewardship of living marine resources through science-based conservation and management and the promotion of healthy marine ecosystems.

January 12, 2009

Implementing the 2007 amendments to the Magnuson-Stevens Act

Website: www.nmfs.noaa.gov/msa2007/

The Magnuson-Stevens Reauthorization Act was signed by President Bush in January 2007. The Act reauthorized the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) and contains mandates with both regional and national implications. The agency's implementation priorities are based on Congressionally-mandated deadlines. This report summarizes the status of implementation two years into Agency efforts.

Status of Major Actions

Annual Catch Limit Guidelines

- The MSFCMA requires annual catch limits (ACLs) and accountability measures (AMs) to end and prevent overfishing. Federal fishery management plans must establish mechanisms for ACLs and AMs by 2010 for stocks subject to overfishing and by 2011 for all others.
- NOAA Fisheries has developed guidelines for the regional fishery management Councils to use in implementing ACLs and AMs.
- Guidelines were published on January 16, 2009, and will be effective February 17, 2009.
- NOAA Fisheries and the eight regional fishery management Councils are amending fishery management plans to implement this statutory requirement.
- Additional details at: www.nmfs.noaa.gov/msa2007/catchlimits.htm

National Environmental Policy Act Guidelines

- NOAA Fisheries is developing procedures for the regional fishery management Councils to integrate the National Environmental Policy Act (NEPA) and the fisheries management process for environmental review as required by the MSFCMA.
- NOAA Fisheries coordinated with the Council on Environmental Quality and the Council Coordination Committee of the regional fishery management Councils in developing the proposal.
- NOAA Fisheries was not able to complete the interagency discussion on the final NEPA rule before the change of administration.
 - On December 19, 2008, NOAA Fisheries withdrew the rule from OMB review.
 - NOAA Fisheries will continue to consider revised procedures for complying with NEPA in the context of the MSFCMA.
- Additional details at: www.nmfs.noaa.gov/msa2007/nepa.htm

Marine Recreational Fisheries Information Program

- The MSFCMA requires that a program be established by January 2009 to improve the quality and accuracy of information generated by Marine Recreational Fisheries Statistics Survey (MRFSS). A National Registry Program for Marine Recreational Fishing must also be created.
- NOAA Fisheries has created a Marine Recreational Information Program (MRIP) to replace the MRFSS. An Implementation Plan for new system of surveys was released on October 10, 2008.
 - This plan is available on the MRIP website: <http://www.st.nmfs.noaa.gov/mrip/index.html>
 - The plan is a blueprint for putting the program into action starting in 2009.
- A National Registry Program for Marine Recreational Fishing has also been created. A final rule to implement the Registry Program published on December 30, 2008. The final rule is effective January 29, 2009, except for the angler registration portion which is effective January 1, 2010.
- Additional details at: <http://www.nmfs.noaa.gov/msa2007/mrip.htm>

International Fisheries

- The MSFCMA requires the Secretary of Commerce to work multilaterally through various fora, such as Regional Fishery Management Organizations, to address illegal, unregulated and unreported (IUU) fishing and bycatch of protected living marine resources.
- NOAA Fisheries Service published a proposed rule regarding certification procedures to address IUU fishing activities and bycatch of protected living marine resources on January 14, 2009, and is accepting comments through May 14, 2009.
- The first biennial report to Congress on the state of knowledge on the status of international living marine resources shared by the U.S. or subject to treaties or agreements to which the U.S. is a party was submitted to Congress on January 13, 2009.
- Additional details at: <http://www.nmfs.noaa.gov/msa2007/intlprovisions.html>

Experimental Fishing Permits

- NOAA Fisheries is required to promulgate regulations that establish an expedited, uniform, and regionally-based process for issuance of experimental fishing permits

- Current regulations contain 3 authorizations for catching fish outside prescribed fishing regulations: Scientific research from a scientific research vessel, exempted fishing under NMFS-issued exempted fishing permits (EFPs), and exempted educational activities.
- A proposed rule was published on December 21, 2007, clarifying the differences among scientific research, exempted fishing, and exempted educational activities; clarifying the difference between conservation engineering and gear testing; clarifying the need for and extent of data required to be collected in conjunction with exempted fishing and exempted educational activities; and clarifying the application process for obtaining an EFP
- The draft final rule is under review by the agency.

Deep Sea Corals

- The MSFCMA directs the Secretary of Commerce, in consultation with appropriate regional fishery management Councils, and in coordination with other Federal agencies and educational institutions, to establish a Deep-Sea Coral Research and Technology Program. The MSFCMA also authorizes Councils to designate zones to protect Deep-Sea corals from damage caused by fishing gear.
- The President's Fiscal Year 2009 budget request included funds to begin implementation of the Deep-Sea Coral Research and Technology Program.
- NMFS published a notice to announce the availability of the Draft NOAA Deep-Sea Coral and Sponge Research and Management Strategic Plan for public comment. Comments on the draft strategic plan were accepted through January 15, 2009.
- Additional details at: <http://www.nmfs.noaa.gov/msa2007/deepseacorals.html>

Limited Access Privilege Programs

- The MSFCMA authorizes that a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program (LAPP) to harvest fish.
- A number of new provisions were added in the 2007 amendments and the Agency is developing guidelines for the Councils to use in implementing their programs. Additional details are available at: www.nmfs.noaa.gov/msa2007/limitedaccesspp.htm
- One specific provision required the Secretary to publish guidelines and procedures for referenda required to establish LAPPs in the Northeast and Gulf of Mexico fisheries. NOAA Fisheries published the procedures on December 15, 2008. See: http://www.nmfs.noaa.gov/msa2007/docs/ifq_referenda_fr.pdf

Disaster Declaration/Assistance Guidelines

- On January 15, 2009, NOAA Fisheries published proposed regulations to govern the requests for determinations of fishery resource disasters as a basis for acquiring potential disaster assistance.
- The regulations would establish definitions, and characteristics of commercial fishery failures, fishery resource disasters, serious disruptions affecting future production, and harm incurred by fishermen, as well as requirements for initiating a review by NOAA Fisheries and the administrative process it will follow in processing such applications.
- Comments will be accepted through April 20, 2009.
- See: http://www.nmfs.noaa.gov/msa2007/docs/disaster_proposed_rule.pdf

Peer Review Process

- NOAA Fisheries is considering modifying the language describing the content and purpose of the Stock Assessment and Fishery Evaluation Report or related documents, and adding language regarding peer review processes, the role of the scientific and statistical committees (SSCs) of the Regional Fishery Management Councils, and the relationship between peer reviews and SSCs.
- NOAA Fisheries published an advanced notice of proposed rulemaking to revise National Standard 2 guidelines regarding use of best scientific information available. The agency will review comments received in February 2009 and draft proposed guidelines.

Status of Other Actions

- Bycatch Reduction and Engineering Program established
- Required amendments to Bering Sea and Aleutian Islands King and Tanner Crab fishery management plan
- Training for new Council members established and conducted in 2007 and 2008
- Community-based restoration program established
- Cooperative research and management program established
- Additional details at: <http://www.nmfs.noaa.gov/msa2007/otherprovisions.html>

Reports to Congress

- Actions taken by the Secretary and Councils relative to conflict of interest provisions
- Council Liaison Report by the New England and Mid-Atlantic Councils
- Steps taken by the Secretary and Councils relative to deep sea corals
- Study on potential shortage of degrees in fishery science
- Potential impact on affected and interested parties of Framework 42
- Impacts of hurricanes on Gulf coast fisheries, shrimp vessels, oyster industry, shrimp and oyster habitat
- Joint Enforcement/US Coast Guard on Data Sharing
- Excess harvesting capacity in marine fisheries
- Determination of the affect of fishing in New England and Hawaiian State wates on Federal management
- Additional details at: <http://www.nmfs.noaa.gov/msa2007/otherprovisions.html>

Delayed Tasks

- Report on state of science for integration of ecosystem considerations for fisheries management
- Revised Council standard operating procedure guidelines
- Study on acidification of the oceans
- Study on the impact of turtle excluder devices on shrimping
- Study on herring distribution, abundance, and role as forage in Northwest Atlantic

All Implementation Tasks

Overall, forty-four of seventy nine (56 percent) of specific tasks have been completed. Sixty-four percent of tasks with a specific deadline in the MSA have been completed.

- “Completed” means the task is done, or no further action is required for it to be effective (i.e., is self-implementing).
- “In Progress” means the task is currently being completed, and all milestones are being met. The project is on track.
- “Delayed” means the project has missed its statutory due date and is behind schedule although work is being done on it, or that the project is on hold, usually due to staffing.
- “No Action” means the task has not yet been started, either due to lack of authorizations or funding.

